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In The

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1969

No.

CITY OF PHOENIX, ARIZONA, and MILTON H. GRAHAM, FRANK G. BENITES, CHARLES CASE, JOHN J. LONG, MILTON SANDERS, MRS. DOROTHY THIELKAS, DR. MORRISON F. WARREN, Members of and constituting the City Council of Phoenix, Arizona,

Appellants,

versus

EMILY KOLODZIEJSKI,

Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

WAIVER OF RIGHT TO FILE A MOTION TO AFFIRM OR DISMISS IN RELATION TO THE JURISDICTIONAL STATEMENT

Appellee waives her right to file a Motion to Affirm or Dismiss in relation to the Jurisdictional Statement filed by Appellants

in this case for the reason that Appellee believes that a substantial federal question exists and Appellee wishes a determination of the question by this Court.

Respectfully submitted,

GUST, ROSENFELD & DIVELBESS
300 Security Building
Phoenix, Arizona 85004

By Fred H. Rosenfeld
Fred W. Rosenfeld
Jane Rex Greer

IVAN ROBINETTE
711 Arizona Bank Building
Phoenix, Arizona 85003

Attorneys for Appellee

MEMORANDUM
IN SUPPORT OF APPELLEE'S POSITION

Some explanation of Appellee's unorthodox position appears necessary. Appellee believes that this Court's decision to take jurisdiction of the Cipriano* case precludes a good faith objection to the jurisdiction in regard to the instant action. Borrowing through the vehicle of General Obligation Bonds is the true backbone of municipal financing in the United States. The taking of jurisdiction by the Court in Cipriano, relating to the more limited form of financing (Revenue Bonds), seems to us to imply that the same jurisdiction exists in relation to the same question (restricted elections) regarding General Obligation Bonds. Needed school and municipal developments in the states affected by the Cipriano decision will hang in the balance until it is determined whether or not the doctrine applies to General Obligation Bonds. The prize the Appellee seeks is to vote in all bond elections in districts in which she lives. The determination of this point should now be settled by this Court. It most certainly will arise again and again until a definitive statement is made and it appears to Appellee that much litigation could be avoided if the Court were to render a decision on the merits of this case.

This memorandum is not to be construed in any way as a waiver of Appellee's position on the merits of the case. However, as the issues are now narrowed solely to the question of the

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* *Cipriano v. City of Houma*
395 U.S. 701 (1969)
(probable jurisdiction noted 393 U.S. 1061 [1969])

validity of the City's General Obligation Bonds, Appellee will agree with Appellant that the period for filing briefs may be shortened with the hope that the Court could reach a decision this term.

Respectfully submitted,

GUST, ROSENFELD & DIVELBESS
300 Security Building
Phoenix, Arizona 85004

By Fred H. Rosenfeld
Fred W. Rosenfeld
Jane Rex Greer

IVAN ROBINETTE
711 Arizona Bank Building
Phoenix, Arizona 85003

Attorneys for Appellee